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June 30, 2004

To: Program of All-Inclusive Care for the Elderly (PACE) Providers

Subject: Long Term Care (LTC)
Information Letter No. 04-26
Medical Necessity Denials for PACE

The PACE program rules were revised effective March 24, 2004 to allow a PACE client to continue receiving services after a denial of Medical Necessity (MN), if the client would meet MN criteria within six months after PACE services end. Texas Administrative Code (TAC) 60.16 Medical Necessity Assessments requires a new Client Assessment, Review and Evaluation (CARE) form 3652-A be completed annually for each participant. The code states:

“In addition, if the Texas Department of Human Services (DHS) determines that a PACE client no longer meets the medical necessity (MN) criteria for nursing facility care, the client may be deemed to continue to be eligible for PACE until the next annual reassessment, if, in the absence of PACE services, it is reasonable to expect that the client would meet the nursing facility MN criteria within the next six months.”

Beginning June 22, 2004 PACE providers can submit reassessment CARE forms to Texas Medicaid and Healthcare Partnership (TMHP) for current PACE clients. Reassessment CARE forms for PACE clients must be submitted to TMHP by October 31, 2004. Bienivir Senior Health Services is the only PACE provider impacted by this provision this year.

PACE providers will be required to submit annual CARE forms for each client. Fifteen to thirty days prior to the expiration date of the current MN, the PACE provider will need to complete and submit a new 3652-A to TMHP for MN determination for the subsequent year.

TMHP determines MN and electronically transmits the information to DHS. When the participant's MN is approved, the Service Authorization System (SAS) is automatically updated, registering the MN approval for one year. The one year period begins the first day of the month following the 3652-A assessment date, and ends the last day of the 12th month following. The Texas Level of Effort (TILE), Diagnosis, and Authorizing Agent SAS records will have the same dates as the MN record.

Example: The 3652-A was completed for applicant John Doe on January 4, 2004 and submitted to TMHP. TMHP approves the MN, transmitting the approval electronically to DHS. The SAS records will reflect the MN approval period of February 1, 2004 to January 31, 2005.

When a participant is approved MN by TMHP, the SAS will reflect that approval on the records mentioned above with a start date of the first of the month.

The following procedures will be used to initiate a review of a reassessment MN denial of a PACE client by TMHP.

Duties of the PACE Provider

Within five (5) DHS working days of notification of the PACE client's MN denial, through the TMHP weekly status report, the PACE provider will mail the CARE form, TMHP status report and supporting documentation to:

Community Care Lead Nurse
DHS Mail Code W-521
P. O. Box 149030
Austin, Texas 78714-9030

Supporting documentation includes any information that will demonstrate that, in the absence of PACE services, the client would reasonably be expected to experience a decline in functioning or health to the degree that they would meet the nursing facility medical necessity criteria within six (6) months. Examples of supporting documentation may include, but is not limited to:

1. Nursing assessments, including CARE form(s);
2. Nursing observations;
3. Lists of services currently provided to the participant;
4. Frequency of medical appointments; and
5. Frequency of medical treatments/interventions.

Duties of the Community Care (CC) Lead Nurse

The CC lead nurse will review the submitted documentation to determine if the:

1. Client has a skilled nursing need(s) that qualifies for nursing facility MN;
2. Client's health status is unstable;
3. Client's current health status is maintained, at least partially, because of the services PACE currently provides; and
4. Client's health and/or functional status are likely to decline over the next six months without PACE services.

Within 10 DHS working days of receipt of the documentation, the CC nurse will notify, in writing, the PACE provider and the regional DHS Medical Eligibility (ME) staff of the decision whether the PACE client is approved (deemed) or not for continued eligibility until the next annual reassessment.

Duties of Regional DHS Staff

1. Upon receiving notification of the denial of MN by TMHP, and of the CC nurse decision to uphold the denial of the client's MN, the ME worker will deny the client's PACE services and give him the right to appeal. A copy of the denial notice must be sent to the PACE provider.
2. If the client files an appeal within the 12-day notification period and the client requests continued services pending the appeal of the denial of MN and/or not meeting the deeming criteria, PACE services continue until the hearing officer renders a decision.
3. The ME worker must notify the PACE provider to continue to provide services during the appeal process.
4. The ME worker will terminate PACE services, if a timely appeal is not filed, effective the end of the month in which the denial was made.
5. Upon receiving notification from the CC nurse of approval of the client's continued participation in PACE, regional staff will extend the client's MN and related records in SAS.

Example: A 3652-A was completed for PACE client John Doe on August 5, 2005. John Doe's current MN expires August 31, 2005. TMHP denies the client's MN. After review of the documentation, the CC lead nurse approves the MN and notifies the DHS ME staff. The client's SAS records (MN, Diagnosis, TILE, and Authorizing Agent) will be extended for the next year, September 1, 2005 to August 31, 2006.

If you have any questions, please contact Gerardo Cantú, PACE program manager, at (512) 438-3693.

Sincerely,

Signature on file

Marilyn Eaton
Director
Long Term Care Services

ME:ck